



Minutes: September 24, 2021

Toronto Local Appeal Body Business Meeting No. 32

Toronto Local Appeal Body - Public Business Meeting – September 24, 2021

Chair: Dino Lombardi

Contact: Tyra Dorsey, Acting Supervisor, Tribunal Operations

Phone: 416-392-4697

Toronto Local Appeal Body Panel Members

Dino Lombardi (Chair)

Ana Bassios

Sabnavis Gopikrishna

Sean Karmali

Christine Kilby

Justin Leung

Stanley Makuch

Shaheynoor Talukder (Vice Chair)

John Tassiopoulos

Ted Yao

Meeting started at 9:32 am

Aboriginal Land Acknowledgement

We acknowledge the land we are meeting on is the traditional territory of many nations including the Mississaugas of the Credit, the Anishnabeg, the Chippewa, the Haudenosaunee and the Wendat peoples and is now home to many diverse First Nations, Inuit and Métis peoples. We also acknowledge that Toronto is covered by Treaty 13 with the Mississaugas of the Credit.

Confirmation of Minutes – Business Meeting, May 07, 2021.

Motion to adopt meeting minutes of May 07, 2021 – Moved by Member J. Tassiopoulos and seconded by Member J. Leung (Carried).

Declaration of Interest under the *Municipal Conflict of Interest Act*

None

32.1 – TORONTO LOCAL APPEAL BODY PANEL ORIENTATION

Dino Lombardi discussed the historical training and orientations sessions provided to the original Panel Members of the TLAB in 2017. Current TLAB Members Yao and Gopikrishna were present for those orientation sessions. Since then, new Members have been appointed but have not received the same level of training and orientation. With the appointment of new Members since 2018 and 2019, the TLAB is obliged to conduct these types of sessions for these Members.

As a result, the TLAB has arranged sessions for today's Business Meeting with the assistance of representative from various City of Toronto departments and agencies.

The TLAB Chair advised Members that the upcoming 2021 Q4 Business Meeting on November 16, 2021 will provide additional and more focused training and orientations sessions 'in-camera' for Members from City Planning Staff, Urban Forestry, and the TLAB's external legal counsel.

Summary

An orientation by way of presentations to the Panel Members of the Toronto Local Appeal Body on:

a. **Chair Introduction**

i. 9:30 a.m. – 9:45 a.m.

b. **Integrity Commissioner**

i. Presenter: Jonathan Batty, Integrity Commissioner also joined by Lisa Di Felice

ii. 9:45 a.m. – 10:25 a.m.

Speaking about the Integrity Commissioner Office role, duties, and responsibilities. An orientation by way of presentations to the appointed Members of the Toronto Local Appeal Body on:

- Responsibility
- Conflict of Interest
- Ethical Obligation
- Integrity
- Code of Conduct
- MCI (Municipal Conflict of Interest Act)

Also spoke on how to contact Integrity Commissioner Office and when. They can be reach by phone, email or in person. Best practise is to contact The Integrity Commissioner Office when a Member **thinks** an issue may arise.

c. **Public Meetings**

i. Presenter: Kelly McCarthy, Deputy City Clerk Secretariat

ii. 10:30 a.m. – 10:50 a.m.

An orientation by way of presentations to the appointed Members of the Toronto Local Appeal Body on:

- Committee meetings
- Closed Sessions
- Quorum

- Voting
- Municipal Conflict of Interest Act

Break at 11:15am

Back at 11:29 am

d. Governance Orientation

- i. Presenter: Karen Jones and David Lee, Senior Corporate Mgmt Policy Consultant
- ii. 11:10 a.m. – 11:30 a.m.
- iii.

An orientation by way of presentations to the appointed Members of the Toronto Local Appeal Body on:

- City of Toronto Agencies and corporations
- TLAB Governance Framework
- Role of TLAB Adjudicative Board
- Governance Best Practices
- Key Legislations, City Bylaws and Policies applicable to TLAB
- Engaging with the City

e. Public Appointments Office

- i. Presenter: Robyn Cook, Manager Community Councils & Committees, and Kate Trotscha, Committee/Council Administrator
- ii. 11:35 a.m. – 11:50 a.m.

An orientation by way of presentations to the appointed Members of the Toronto Local Appeal Body on:

- Terms of Appointment
- Conditions of the members' appointment
- Hearings and Meetings
- Remunerations
- Notify the Clerk and Tribunal
- Leave of Absence
- Resignation
- Expectation of TLAB Members

f. Court Services

- i. Presenter: Gary Clarke, Manager Court Operations
- ii. 11:55 a.m. – 12:15 p.m.

Deferred to November 16 Meeting – Motion to Defer to the next TLAB Quarterly Business meeting moved by D. Lombardi and Seconded by J. Tassiopoulos (Carried)

Break at 12:27 am

Back at 01:30 pm

32.2 REFRESHER BUSINESS MEETING PROTOCOL

Summary

The Toronto Local Appeal Body Chair will provide a refresher on the Business Meeting Protocol.

Overview of the TLAB Business meetings, reviewing components of the newly adopted protocol for Tribunal Business Meetings in an attempt to improve the efficiency and effectiveness of the TLAB quarterly meetings. It is hoped the new protocol will also reduce the overall length of Meetings and, therefore, improve the time commitments required of Members attending those meetings.

The approach is based primarily on Section G, Rules of Debate, of the Procedural By-law 1-2017 governing the meetings of the TLAB and the protocol employed at City Council meetings.

Supporting Documents

Procedural Protocol for TLAB Quarterly Business Meetings

Deferred Items:

32.3 – WEBEX HEARING RECORDINGS

Summary

The Toronto Local Appeal Body Supervisor will update the Tribunal on obtaining separate audio from the WebEx Conference System. The Toronto Local Appeal Body will decide how to fulfill Digital Audio Recording Request in the future.

Member Yao requested to split the audio from video recordings when sending to TLAB.

Supervisors' update: There is a way to separate the video from a DAR recording. TLAB needs a direction from the Tribunal on how to provide the recording.

Mr. Yao is satisfied that TLAB can provide audio only and deal with request of video recording on case by case basis.

Vice Chair Talukder - If it's a Case by case basis, the public needs to file a motion to request a video.

Mr. Makuch is speaking on transparency, if the video is available then what will prevent us to provide it to the public.

Kilby - Having a video for the member is beneficial when it comes to exhibits, checking documents etc.

TLAB External Legal Counsel Mr. Marshall - Digital Audio is required only for transparency. If the video is extremely important, we can implement a motion for the request.

Motion:

That when a request is received from a member of the public for a copy of the recording of a Hearing, that staff is to provide an audio copy; and

That if the member of the public wishes to have the visual part of the recording, they may make a Motion to the Presiding Panel Member to release the visual recording.

Moved by Member Yao, seconded by S. Gopikrishna (Carried)

Rejected by: S. Makuch

32.4 – SUB-RULE ADOPTION

Summary

The Toronto Local Appeal Body to consider new Sub-Rule 2.6 to the TLAB's Rules of Practice and Procedure regarding a protocol on communications by a Parties or others directly with Toronto Local Appeal Body Members. The amended Rules of Practice and Procedure with the added Sub-Rule to be adopted in its entirety.

Motion:

That Rule 2 of TLAB Rules of Practice and Procedure be revised to include new Sub-Rule 2.6 in the form and text of that wording that was adopted at the May 7, 2021, Business Meeting; and that the Tribunal's Rules of Practice and Procedure be posted to accord with this action; and

That the Acting Supervisor of the TLAB be authorized to do everything reasonably necessary to effect the above action.

Motion moved by Member Vice chair S. Talukder and Seconded by T. Yao (Carried)

Supporting Documents

Proposed Rules of Practice and Procedure with added Sub-Rule 2.6.

32.5 – CHAIR'S UPDATE

The TLAB Chair will provide an update on:

- a. Joint Health & Safety
- b. Reopening
- c. Upcoming Business Meeting
- d. SOARS Training – Effective Decision Writing Session

a. Joint Health & Safety - There was discussion about providing PPE, Masks, and Separate Glass however this has been revised as per Ministry of Labour Advice.

There is a requirement from the COT, to wear a mask and it's up to the Member however, it is required to wear a mask at 40 Orchard Blvd. same applies on the member of the public.

B- Reopening: 30% occupation restriction in place. In September, some City staff returned back to office on a rotational basis.

The return of 'in-person' hearings will depend on the relaxing of the COVID-19 rules and protocols from Province. The City of Toronto will then re-visit its protocols and then direction will be provided to court Services.

At this point, the TLAB Chair stated that the status quo of remote or 'virtual TLAB Hearings will continue until we receive direction from the city councils. The ultimate decision to return to in-person Hearings will be determined in consultation with TLAB Members.

We also need a lead time before so we can communicate with TLAB Members as well as members of the public.

HVAC system has been inspected and library controls that, and the air control passed the inspection and Court Services has been advised that the TLAB's office space is safe to use.

Member can make an appointment to use the computers in the office at 40 orchard view Blvd.

c. Upcoming Business Meeting - Defer the discussion so we can discuss in the last agenda item.

d. SOARS Training – Effective Decision Writing Session - will be accommodated through Zoom meeting in November 5, 2021. Additional communication will be provided soon. This training and education session is intended to assist Members with the Tribunal's goal of continuing to produce well-written, concise and consistent decisions and orders.

Comments:

Member Bassios - Question about Covid Vaccine, if it applies to Panel Members.

Mr. Lombardi - We will be advised with a direction from Court Services.

Motion to receive the TLAB Chair update moved by Member S. Makuch and seconded by Member Bassios (Carried)

32.6 – SUPERVISOR AND MANAGER'S UPDATE

Toronto Local Appeal Body – Supervisor's and Manager's Update.

Summary

Court Services Supervisor and Manager to provide an update on administrative matters pertaining to the following items:

- a. Status of electronic & in-person hearings
 - b. Updates on Covid-19 and impact on services
 - c. Annual Calendar of business meetings via Public Meeting webpage
 - d. Introduction to new staff
- No information yet about mandatory vaccination for the appointed Members.
 - Staff are in the office on hybrid basis (1-2 days a week).
 - Member can come to the office with a prior appointment.
 - Social Distancing and Masks are required at 40 Orchard View and the reception area.
 - New Staff members coming to TLAB in October
 - New Lead with TLAB - Carina
 - Will be cross training staff from other tribunals.
 - There will be 5 trained individuals by the end of the year.

Mr. Lombardi, we are waiting for confirmation from the City Council and legal department, it might be on hybrid approach.

The TLAB Chair expects virtual hearings will continue until the end of this year and possibly into early 2022. The situation is fluid and ongoing and may change depending on the relaxing of COVID protocols.

It might also be a preference of the member and we can reach a consensus about how safe and comfortable to return to 40 Orchard View.

Manager G. Clarke - Working with City legal to extend Tribunal return in-person.

- We are not forced to come in-person this is the Tribunal decision and working remotely is the best for now.
- Chair Lombardi - I also enjoyed working remotely, and I had no complaint from TLAB Members or members of the public.
- Member Kilby - Will be a helpful if we receive feedback from Staff regarding folder and case files etc.
- Acting Supervisor: Responded

Member Talukder: Accessibility Decision, takes anytime from 45 min to a hour and issuance will be the next day.

Motion to receive Court Services Health and Safety presentation from TLAB Manager Gary Clary.

Motion for TLAB to receive the supervisor update:

Moved by Chair Lombardi and seconded by Ms. Kilby (carried)

Break at 3:11pm

Back at 3:20 pm

32.7 – SUBCOMMITTEE UPDATE

Toronto Local Appeal Body – Subcommittee to report on progress.

Summary

The Toronto Local Appeal Body will receive an update and presentation from the Subcommittee Chair regarding the status of this evaluation initiative and draft Recommendations from the sub-committee. The TLAB may further defer the item to a future business meeting.

Update was provided in May, sub-committee was created on Dec. 2, 2020, and convened a number of sub-committee meetings, the most recent on August 27, 2021, to discuss the valuable insights received regarding the Draft Recommendations.

Mr. Karmali representing about some potential service improvement actions, Insights and Motions.

Discussions about how to make TLAB accessible for parties that are Self Representative. One idea is to make an easy to read TLAB Handbook geared to the general public. Another idea was to create a second video of an 'anatomy' of a TLAB Hearing to be uploaded to the Tribunal's website.

S. Karmali looking for volunteers to take over or join the Sub-committee. Dino Lombardi has agreed to join the Sub-committee

Motion:

That the Subcommittee report back on progress at the first TLAB Business Meeting in 2022 about the following action items:

- a. Create an outline for the mini handbook for Self-Represented Parties
- b. Develop a draft list of frequently asked questions
- c. Continue to study the ways in which mediation can be encouraged, how it is best practiced, and what opportunities exist to become effective mediators

That the Subcommittee continues to study the feedback and input received to date and any forthcoming feedback from the public regarding the Draft initiative outlined in the subcommittee's September 14, 2021 memorandum

That it be incumbent on each TLAB Member to inform TLAB staff forthwith of cases that have been mediated, whether the mediation was successful or not

That TLAB staff keep a simple track record of mediated cases in an Excel worksheet as of January 2021.

That a draft continuous service improvement work program be provided at the second TLAB business meeting in 2022 for consideration and adoption by the Members, and an implementation plan and timeframe be involved as part of that model

TLAB Chair to join the subcommittee as an additional member

Moved by Chair Lombardi, Seconded by S. Karmali (Carried)

32.8 – PREHEARING CONFERENCE PILOT PROJECT

Vice-Chair to provide update on Prehearing Conference Pilot Project.

Summary

The TLAB initiated a Prehearing Conference Pilot Project in consultation with the Chair and Vice-Chair. It is a selected prehearing to be heard on a fixed day and attended by the Vice-Chair. The following are the discussion elements: parties are encouraged to settle or resolve the issues raised, and limitations are set on the number of hearing days allowed for presentations. The Vice-Chair will provide an update and memorandum on the progress of the pilot project.

At the TLAB's 2021 Q2 Business Meeting on May 7, 2021, TLAB panel Members passed the following Motion which is intended to initiate and implement a Prehearing Conference (PHC) Pilot Project related to the requirement for additional Hearing days:

That The TLAB to initiate a Prehearing Conference Pilot Project in consultation with the Chair and Vice-Chair for selected pre-hearings to be held on a fixed day and heard by the Vice-Chair with the following elements of discussion: parties be encouraged to settle or resolve the issues raised, and limitations be set on the number of Hearing days allowed for presentation. The Vice-Chair is to report on the progress of the Pilot Project at each business meeting.

The PHC Pilot Project will commence on January 1, 2022.

Motion that the memorandum and update presented by the Vice-Chair dated September 24, 2021, be received; and that the pre-hearing conference pilot project as outlined in the memorandum commence as soon as possible for a period of one (1) year.

Mover by Gopi, Secunder by Yao

Supporting Documents

Memorandum on Prehearing Conference (PHC) Pilot Project

32.9 - CLOSING BUSINESS AND REMARKS

Chair Lombardi to confirm the next Public Business Meeting dates.

Motion:

That the remaining two 2021 TLAB business meetings be identified as: November 16, 2021, as Q4, and December 10, 2021, as Q5; and

That the November 16, 2021, Q4 business meeting, which will be an education and training session for the Members, be conducted 'in-camera' pursuant to the TLAB Procedure By-law 1-2017, section 11 (f).

Moved by Member Yao, Seconded by S. Talukder (Carried)

Meeting ended at 5:30 pm

Staff Attendance:

Gary Clarke

Manager

Tribunal Operations, Court Services

Tyra Dorsey

Secretary / Acting Supervisor

Toronto Local Appeal Body, Court Services

Kevork Chelenkerian

Support Assistant B

Toronto Local Appeal Body, Court Services

Carina Cinelli

Support Assistant A

Toronto Local Appeal Body, Court Services